

SUPPORTING STATEMENT

A. Justification:

1. On February 11, 2009, the DTV Delay Act was signed by the President and enacted into law, extending the nationwide DTV transition date from February 17 until June 12, 2009. As a result, after June 12, 2009, full-power television broadcast stations must transmit only digital signals, and may no longer transmit analog signals,¹ except for limited statutory analog “nightlight” service.² The DTV Delay Act directs the Commission to take any actions “necessary or appropriate to implement the provisions, and carry out the purposes” of the DTV Delay Act, and to do so within 30 days.³ Congress extended the transition date in order to permit analog service to continue until consumers have had additional time to prepare.⁴

The Commission is currently reaching out to the broadcast industry to coordinate a voluntary nationwide block programming “soft test” on May 21. A “soft test” is when a station airs a slate and/or other programming for a very short period of time in lieu of regularly scheduled programming to catch the attention of viewers and inform them that if they are receiving this “soft test” programming then they may not be prepared for the DTV transition. The test should be an effective way to measure government, industry, and consumer readiness for the digital transition on June 12 and would remind consumers of the immediate need to take action. It will test the preparedness of the Commission’s and broadcasters’ call centers to handle the call traffic expected around the final transition date. Industry-sponsored “soft tests” to date have proven effective as “wake up calls” to consumers. The Commission, however, is asking broadcasters to conduct a soft test on the same day and at the same time to ensure viewers will notice the test. The Commission believes a coordinated nationwide test – even though voluntary – would maximize the impact of the test. The Commission’s request for broadcasters to voluntarily participate in the nationwide block programming “soft test” on May 21 implicates the Paperwork Reduction Act of 1995 (“PRA”) and would impose the following voluntary third party disclosure information collection requirements.

1. Broadcast of soft test “slate” and/or other programming: The soft test proposal asks participating

¹ See DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (2009). The DTV Delay Act (to be codified at 47 U.S.C. §§ 309(j)(14) and 337(e)), amends Section 309(j)(14) of the Communications Act to establish June 12, 2009 as the new nationwide deadline for the end of analog transmissions by full-power stations. 47 U.S.C. § 309(j)(14)(A) (“A full-power television broadcast license that authorizes analog television service may not be renewed to authorize such service for a period that extends beyond June 12, 2009.”). See also 47 U.S.C. § 337(e)(1) (“Any full-power television station licensee that holds a television broadcast license to operate between 698 and 806 megahertz may not operate at that frequency after June 12, 2009.”).

² See the Short-term Analog Flash and Emergency Readiness Act, Pub. L. No. 110-459, 122 Stat. 5121 (2008) (“Analog Nightlight Act”).

³ DTV Delay Act § 4(c) (“Notwithstanding any other provision of law, the Federal Communications Commission ... shall, not later than 30 days after the date of enactment of this Act, each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act.”). In addition, the DTV Delay Act amends the Digital Television and Public Safety Act of 2005 (“DTV Act”), Pub. L. No. 109-171, 120 Stat. 4 (2006), to direct the Commission to “take such actions as are necessary (1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by June 13, 2009; and (2) to require by June 13, 2009, ... all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive).” 47 U.S.C.A. § 309 Note.

⁴ See, e.g., Cong. Rec. H895 (daily ed. February 4, 2009).

stations to broadcast a “slate” and/or other programming three times a day, each time for a duration of 5 minutes, resulting in 15 minutes of total air time (3 x 5 = 15) for this voluntary third party disclosure requirement. The soft test proposal also asks participating stations to include voice-overs for the blind in their “slate” and/or other programming.

2. Promotional and follow-up additional consumer education messaging: The soft test proposal asks participating stations to promote the soft test with messaging before the test and to follow-up the test with additional consumer education messaging.⁵ We estimate that participating stations would air this additional consumer education messaging for the 7 days preceding the test and for the following 21 days leading up to the nationwide transition on June 12. We estimate that participating stations would air this additional consumer education messaging for approximately 20 minutes each day for the aforementioned 28 days, resulting in 560 minutes of total air time (20 x 28 = 560) for this voluntary third party disclosure requirement.

OMB emergency approval is needed for the above information collection requirements.

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection of information is contained in Sections 1, 2, 4, 7, 303, 309, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, 157, 303, 309, and 337, and Sections 2 and 4 of the DTV Delay Act, Pub. L. No.111-4, 123 Stat. 112, to be codified at 47 U.S.C. §§ 309(j)(14) and 337(e),

2. Indicate how, by whom, and for what purpose the information is to be used.

Information will be broadcast directly to consumers by full-power television stations for the purpose of educating the public about the DTV transition.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Broadcasters will provide the required information to their viewers via their regular over-the-air broadcast signal (e.g., via “slate,” PSAs, information crawls, snipes, or tickers).

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

⁵ To the extent that broadcasters include the “soft test” messages as part of their existing consumer education messaging, this collection would be covered by OMB Control No. 3060-1115, relating to the FCC’s consumer education requirements.

This agency does not impose a similar information collection on the respondents. There are no similar data available.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. The new information collection requirement is voluntary and only burdens participants in the soft test. For this reason, this collection of information will not have a significant economic impact on a substantial number of small entities/businesses.

Although these requirements will impose some costs on small broadcasters, they will also ensure that small broadcasters continue to retain their audiences after the transition by fully informing viewers of the steps necessary to keep watching television. Small broadcasters rely completely on their viewing audience for their revenue stream, so this benefit should far outweigh any costs for this temporary requirement.

6. Describe the consequence to federal programs or policy activities if the collection is not conducted or is conducted less frequently.

Congress has mandated that after June 12, 2009, full -power broadcast stations must transmit only in digital signals, and may no longer transmit analog signals (except for FCC approved “analog nightlight” service). Furthermore, Congress directed the Commission to take any actions “necessary or appropriate to implement the provisions, and carry out the purposes” of the DTV Delay Act. There is a clear and compelling need for educational efforts directed toward consumers. If the Commission does not take immediate and effective action to ensure that viewers are informed of the effect that the digital transition will have on them and the options that are available to them, some consumers may lose television service. The limited-duration burdens are the minimum necessary to ensure the success of the transition. Without these submissions, the Commission will not fulfill Congress’ mandate and will not be able to verify that the DTV transition is progressing smoothly and play its leadership role in ensuring that the burden on consumers is minimized as much as possible.

7. Explain any special circumstances.

This collection of information is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and

recordkeeping, disclosure, or reporting format, and on data elements to be recorded, disclosed, or reported.

The Commission received OMB approval to waive the Federal Register public comment period for the new information collection requirements contained in this supporting statement due to the Commission immediately having to collect the information collections from the public. The Commission coordinated implementation of this voluntary program with broadcasters and various broadcast associations (e.g., NAB and MSTV) to obtain broadcaster input for the soft test.

9. Explain any decision to provide any payment or gift to respondents.

No payment or gift was provided to the respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no need for confidentiality with this collection of information.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This information collection does not address any private matters of a sensitive nature.

12. Provide an estimate of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Provide estimates of annualized costs to respondents for the hour burdens for collections of information. The cost of contracting out or paying outside parties for

information collection activities should not be included here. Instead this cost should be included in Item 13.

The Commission estimates that approximately 1,200 stations will participate in the voluntary soft test on May 21. Participating broadcasters will broadcast three (3) soft tests during the day. Each test will last for about 5 minutes. Participating broadcasters will also broadcast promotional and follow-up information for one week leading up to the test and then the last three weeks leading up to the June 12 transition deadline. Participating broadcasters will also report to the Commission about the results of their soft test.

Number of Respondents	Number of Responses	Respondent's Burden Hours	Annual Burden Hours	Respondent's Hourly Salary ⁶	Annual In-House Cost
1. Broadcast of soft test “slate” and/or other programming, including voice-overs for blind					
1,200	3,600 ⁷	.084 hours (5 min. ea.)	302 hrs	\$48.08	\$14,520.16
2. Promotion and follow-up informative messaging					
1,200	33,600 ⁸	0.33 hours (20 min. ea.)	11,088 hrs	\$48.08	\$533,111.04
Totals					
1,200	37,200		11,390		\$547,631.20

13. ANNUAL COST BURDEN: Provide an estimate of the total annual cost burden to

⁶ The respondent is estimated to have an annual salary of \$100,000 (\$48.08/hour). These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

⁷ 1,200 x 3 = 3,600.

⁸ 1,200 x 28 = 33,600. We estimate that broadcasters will air promotion and follow-up programming for 4 weeks. Each day of such programming (for 28 days) is counted as a 20 minute response for purposes of this estimate, even though broadcasters may air such programming in smaller blocks of time throughout the day.

respondents resulting from the collection of information. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Do not include the cost of any hour burden shown in Item 12.

- (a) Total annualized capital/startup costs: None
- (b) Total annual costs (O&M): None
- (c) Total annualized cost requested: None

14. Provide estimates of costs to the federal government. Provide a description of the method used to estimate costs, which should include quantification of hours, operational expenses such as equipment, overhead, printing, and support staff.

There is no cost to the Federal Government.

15. Unless this a new collection of information, explain the reasons for any program changes or adjustments.

This is a new information collection which adds a program change of +11,390 annual burden hours to this collection.

16. For collections of information whose results will be published, outline plans for tabulation, and publication.

The data will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

OMB approval of the expiration of the information collection will be displayed at 47 CFR 0.408.

18. Explain each exception to the certification statement.

There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.